

NO. CAAP-15-0000676

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

TAMMY C. KINCAID, Petitioner-Appellee, v.
ROLENE C. GUTIERRES, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(FC-DA NO. 15-1-000337)

ORDER DISMISSING THE APPEAL PURSUANT TO HRAP RULE 30
(By: Nakamura, C.J., Fujise and Reifurth, JJ.)

Upon review of the record, it appears that:

(1) On September 18, 2015, Respondent-Appellant Rolene C. Gutierres (Appellant), pro se, filed a notice of appeal;

(2) On November 17, 2015, the family court clerk filed the record on appeal, and the appellate clerk notified the parties that the statement of jurisdiction and opening brief were due on or before November 27, 2015, and December 28, 2015, respectively;

(3) Appellant failed to file the statement of jurisdiction or request an extension of time;

(4) On December 28, 2015, the appellate clerk granted Appellant an extension of time for the opening brief for thirty days to January 27, 2016;

(5) On January 28, 2016, the court granted Appellant a second extension of time for the opening brief for thirty days to February 26, 2016;

(6) Appellant failed to file the opening brief, or request an extension of time;

(7) On March 1, 2016, the appellate clerk notified Appellant that the time for filing the statement of jurisdiction and opening brief expired and, pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 30, the matter would be called to the court's attention on March 11, 2016, for appropriate action, which could include dismissal;

(8) On March 10, 2016, Appellant sought relief from default, a first extension of time for the statement of jurisdiction and a third extension of time for the opening brief;

(9) On March 23, 2016, the court granted Appellant relief from default, extended the statement of jurisdiction and opening brief deadlines to April 4, 2016, and April 22, 2016, respectively, with no further extensions of time absent extraordinary circumstances. The court cautioned Appellant that further default of the opening brief may result in sanctions, including dismissal of the appeal, pursuant to HRAP Rule 30;

(10) Appellant failed to file the statement of jurisdiction or timely request an extension of time;

(11) On April 22, 2016, Appellant filed a motion for a second extension of time for the statement of jurisdiction and fourth extension of time for the opening brief;

(12) On May 12, 2016, the court granted Appellant relief from default of the statement of jurisdiction, and extended the statement of jurisdiction and opening brief due dates to May 23, 2016, and June 13, 2016, respectively, with no further extensions of time absent extraordinary circumstances. The court again cautioned Appellant that further default of the opening brief may result in sanctions, including dismissal of the appeal;

(13) On May 24, 2016, the United States Postal Service returned the May 12, 2016 order as undeliverable as addressed and unable to forward. The appellate clerk mailed the May 12, 2016 order to Appellant at the same address in the record on appeal using zip code **96732**, and the appellate clerk had mailed several other documents to Appellant at the same address that were not

returned. But every document the court received from Appellant used zip code **96733**, although Appellant took no action to correct the record on appeal. Nonetheless, on June 21, 2016, the appellate clerk re-sent the May 12, 2016 order to Appellant at the **96733** zip code, and no return mail was received; and

(14) Thereafter, Appellant did not file the statement of jurisdiction or opening brief, or take any further action in this appeal.

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, July 27, 2016.

Chief Judge

Associate Judge

Associate Judge